
SENATE BILL NO. 74—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 16, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits persons who appoint, employ or contract with producers of insurance from requiring certain noncompetition agreements. (BDR 57-226)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; prohibiting persons who appoint, employ or contract with producers of insurance from requiring certain noncompetition agreements; prohibiting such persons from conditioning the receipt of certain property on noncompetition agreements; prohibiting such persons from requiring the forfeiture of certain property if the producer of insurance pursues other employment; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an employer and employee to enter into a noncompetition agreement that prohibits the employee, after termination of his employment, from pursuing a similar vocation in competition with or becoming employed by a competitor of the employer. The agreement must be reasonable in its scope and duration and must provide a monetary benefit to the employee. (NRS 613.200)

Existing law provides for the regulation of persons who sell, solicit or negotiate insurance in Nevada as producers of insurance, including the licensure of such persons. (Chapter 683A of NRS) Any violation of those provisions is a misdemeanor unless a different criminal penalty is provided. (NRS 683A.490)

This bill prohibits a person who appoints, employs or otherwise contracts with a producer of insurance from: (1) entering into a noncompetition agreement with the producer of insurance; (2) providing property to the producer of insurance contingent upon the producer of insurance signing a noncompetition agreement; and (3) requiring a producer of insurance to forfeit any property given to him if he



16 pursues a job in competition with or becomes appointed or employed by or
17 contracts with a competitor of the person. This bill also forbids any agreement to
18 alter or waive that prohibition. Under the general criminal penalty provision for
19 Chapter 683A of NRS, a violation of these provisions is a misdemeanor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 683A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 1. *A person who appoints, employs or otherwise contracts*
4 *with a producer of insurance licensed pursuant to NRS 683A.201*
5 *shall not:*

6 (a) *Enter into any agreement with the producer of insurance*
7 *that prohibits, constrains, restricts or limits the producer of*
8 *insurance, after termination of the appointment, employment or*
9 *other contractual relationship with the person, from pursuing a*
10 *similar vocation in competition with the person or from becoming*
11 *appointed or employed by or from contracting with a competitor of*
12 *the person;*

13 (b) *Condition the provision by the person of any property to*
14 *the producer of insurance on the entry by the producer of*
15 *insurance into an agreement with the person that prohibits,*
16 *constrains, restricts or limits the producer of insurance, after*
17 *termination of the appointment, employment or other contractual*
18 *relationship with the person, from pursuing a similar vocation in*
19 *competition with the person or becoming appointed or employed*
20 *by or contracting with a competitor of the person; or*

21 (c) *Require the forfeiture of any property provided to the*
22 *producer of insurance by the person if, after termination of the*
23 *appointment, employment or other contractual relationship with*
24 *the person, the producer of insurance pursues a similar vocation*
25 *in competition with the person or becomes appointed or employed*
26 *by or contracts with a competitor of the person.*

27 2. *A person and a producer of insurance may not agree to*
28 *alter or waive the provisions of this section.*

29 3. *Any agreement that violates the provisions of this section is*
30 *void to the extent that it violates the provisions of this section.*

31 4. *As used in this section, "property" means any property that*
32 *may be the subject of ownership, whether the property is real or*
33 *personal or tangible or intangible, and any interest in such*
34 *property, whether the interest is legal or equitable, present or*
35 *future, or contingent or vested. The term includes, without*
36 *limitation, stocks, stock options and other intangible interests in*
37 *business associations.*



1 **Sec. 2.** NRS 683A.490 is hereby amended to read as follows:
2 683A.490 1. The Commissioner may inform the appropriate
3 district attorney of any violation of any provision of this chapter.

4 2. In addition to any ~~either~~ *civil or administrative* penalty *or*
5 *sanction* provided in this chapter , any person violating any
6 provision of this chapter is guilty of a misdemeanor ~~or~~ *unless a*
7 *greater criminal penalty is provided by law.*

8 **Sec. 3.** NRS 613.200 is hereby amended to read as follows:

9 613.200 1. Except as otherwise provided in this section, any
10 person, association, company or corporation within this State, or any
11 agent or officer on behalf of the person, association, company or
12 corporation, who willfully does anything intended to prevent any
13 person who for any cause left or was discharged from his or its
14 employ from obtaining employment elsewhere in this State is guilty
15 of a gross misdemeanor and shall be punished by a fine of not more
16 than \$5,000.

17 2. In addition to any other remedy or penalty, the Labor
18 Commissioner may impose against each culpable party an
19 administrative penalty of not more than \$5,000 for each such
20 violation.

21 3. If a fine or an administrative penalty is imposed pursuant to
22 this section, the costs of the proceeding, including investigative
23 costs and attorney's fees, may be recovered by the Labor
24 Commissioner.

25 4. The provisions of this section do not prohibit a person,
26 association, company, corporation, agent or officer from
27 negotiating, executing and enforcing an agreement with an
28 employee of the person, association, company or corporation which,
29 upon termination of the employment, prohibits the employee from:

30 (a) Pursuing a similar vocation in competition with or becoming
31 employed by a competitor of the person, association, company or
32 corporation ~~or~~ *, unless the agreement violates section 1 of this act;*
33 or

34 (b) Disclosing any trade secrets, business methods, lists of
35 customers, secret formulas or processes or confidential information
36 learned or obtained during the course of his employment with the
37 person, association, company or corporation,
38 ↳ if the agreement is supported by valuable consideration and is
39 otherwise reasonable in its scope and duration.

40 **Sec. 4.** The provisions of this act apply to any agreement
41 entered into before, on or after October 1, 2005.



